NOTICE OF INTERVENTION AND COMMENTS
OF THE MAINE PUBLIC UTILITIES COMMISSION

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission¹ (“Commission”) and the Commission’s January 8, 2018 Combined Notice of Filings #1, the Maine Public Utilities Commission (“MPUC”) hereby files this Notice of Intervention and Comments. On January 8, 2018, ISO New England, Inc. (“ISO-NE”) filed a proposal to revise its Tariff to adopt provisions known as Competitive Auctions with Sponsored Policy Resources (“CASPR”). As discussed below, the MPUC considers CASPR a reasonable approach to accommodate the entry of state sponsored new resources into the capacity market; however specific provisions adopted by ISO-NE to avoid unwarranted price spikes should not be altered in any Commission approval of the CASPR provisions.

I. PRELIMINARY STATEMENT

The MPUC’s Notice of Intervention is filed pursuant to Rule 214(a)(2) of the Rules of Practice and Procedure of the Commission, 18 C.F.R. § 385.214(a)(2) (2017), and the Commission’s January 8, 2018 Combined Notice of Filings #1 in which the Commission established January 29, 2018, as the date by which interventions and comments were to be filed in the instant proceeding.

The person to whom correspondence, pleadings, and other papers in relation to this proceeding should be addressed and the person whose name is to be placed on the Commission’s official service list is designated as follows pursuant to Rule 203, 18 C.F.R. § 385.203 (2017):

Lisa Fink, Esq.,
Counsel for the State of Maine
Public Utilities Commission
101 Second Street
Hallowell, ME 04347
Mailing Address: 18 State House Station
Augusta, ME 04333-0018
(207) 287-1389 (telephone)
Lisa.Fink@maine.gov

II. NOTICE OF INTERVENTION

Under Maine law, the MPUC is the state commission designated by statute with jurisdiction over rates and service of electric utilities in the state. 35-A M.R.S. § 101 et seq. It is, therefore, a “state commission” under the Commission’s regulations, 18 C.F.R. § 1.101(k) (2017). Accordingly, the MPUC hereby gives notice of its intervention pursuant to Rule 214(a)(2) of the Rules of Practice and Procedure of the Commission, 18 C.F.R. § 385.214(a)(2) (2017) and respectfully requests that the Commission recognize the MPUC as an intervenor in this proceeding, with all rights attendant thereto.

III. BACKGROUND

A. State-Sponsored Resources, Minimum Offer Price Rule and Renewable Technology Resource Exemption

The Commission has adopted a Minimum Offer Price Rule to address possible price suppression resulting from state-sponsored renewable energy resources that participate in the FCM. The Commission was concerned that state-sponsored resources could reflect their out-of-market contract revenue in their bid offers, thus depressing the market price. To address this concern, the Commission adopted rules that required these state-sponsored resources to bid at their costs, net of the out of market revenues. Because these bids were often high, many state-
sponsored resources were precluded from obtaining Capacity Supply Obligations (“CSOs”) in the annual Forward Capacity Market (“FCM”) auctions. The states sought a limited renewable resource exemption to address the concern that additional consumer costs occur when consumers pay for a public policy resource through a state program and then are required to purchase redundant capacity in the market. As part of a package of market modifications, the Commission adopted a 200 MW Renewable Technology Resource (“RTR”) exemption. The RTR exemption permits a limited quantity of certain new renewable resources to offer their capacity in the Forward Capacity Auction (“FCA”) at prices below those established by the minimum offer price rule, subject to several limiting factors.

B. CASPR Proposal

In developing CASPR, ISO-NE sought to accommodate the entry of state-sponsored resources into the FCM, while maintaining competitive capacity pricing. ISO-NE states that CASPR is needed because of the efforts among some states to increase their efforts to promote the development of specific state-procured new generation resources. These efforts are expected to greatly increase the amount of state-sponsored resources to be procured, and these resources will likely exceed or not qualify for the RTR exemption, resulting in a potentially significant overbuild of the system. The proposed CASPR provisions seek to accommodate these additional resources in a manner that is consistent with a competitive market structure. Specifically, the proposed provisions allow generators that submit retirement bids in the primary capacity auction to be “bought out” by state-sponsored policy resources that did not clear in that primary FCA in a second “substitution” auction.

C. Protections from Substantial and Inefficient FCM Price Increases

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2 January 8, 2018, Transmittal Letter at 3.

3 Id. at 4.
In its initial formulation of the rule, ISO-NE proposed to allow all resources that cleared the initial auction to participate in the substitution auction. To make sure new generators could not strategically game the system by developing fictitious bids, ISO-NE proposed that any new resources that cleared in the initial auction would participate in the substitution auction but would be ineligible for compensation. ISO-NE later retracted this component of the rule in response to the concern expressed by the states (and others) about the dampening effect this would have on competitive new entry of generation projects. The initial formulation of the rule could lead to a situation where, absent new competitive entry, state-sponsored resources might set the primary auction clearing price at their Minimum Offer Price. States called this a “price explosion.” The version of the rule filed by ISO-NE addresses state concerns by not allowing new competitive resources that clear in the primary auction to participate in the substitution auction.

In the stakeholder process, the External Market Monitor (“EMM”) expressed concern with ISO-NE’s decision to change its original proposal. The EMM opined that the “price explosion” concern could be addressed by capping bid prices of subsidized resources at the Net Cost of New Entry (“CONE”).

In its January 8, 2018, filing ISO-NE explains why it didn’t adopt the EMM proposal:

The ISO has assessed the EMM’s recommendation and identified a number of concerns with it. First, the EMM’s design would still reduce the incentive for competitive developers to qualify new capacity in New England, because they receive no compensation when they are forced (involuntarily) to transfer their capacity to sponsored policy resources in the substitution auction. While this outcome may be acceptable in scenarios when the region’s capacity needs can instead be met with sponsored policy resources, in practice the generation development process is lengthy and fraught with uncertainty (even in cases where the resource is sponsored by a public entity). As a result, this treatment could create scenarios where private developers decline to enter because they expect sponsored policy resources may take their place, but these sponsored MW do not qualify (or qualify years later than originally announced). In such cases, the FCA would again risk the inefficient “high FCA price” outcome, at a potentially great cost to consumers and at the risk of undermining the integrity of the FCM overall.
Second, from a process standpoint, the EMM’s preferred treatment would place enormous political pressure on the administrative value of Net CONE (or any administrative value that serves as the minimum price at which a sponsored policy resource could offer in the primary auction). That administrative value would likely now set the clearing price in sponsored policy resources seeking to sell capacity. As a result, future FCA clearing prices would effectively be set by administrative dictate, rather than by market-based supply from competitive new capacity—undermining the first CASPR design objective of competitively-based capacity pricing.  

IV. COMMENTS

The CASPR proposal is a reasonable, market-based approach to accommodate the entry into the capacity market of state-sponsored new resources. The proposal provides for an orderly entry into and exit from the capacity market, while maintaining adequate price signals in load pockets where new capacity resources are needed. Further, the proposal meets the important criteria of protecting competitive market price formation in the primary auction and ensuring that costs of individual state procurements are borne by the state taking the procurement action.

Of critical importance to the CASPR proposal are the provisions developed by ISO-NE to protect competitive new entry in the primary auction, thereby minimizing the consumer harm and price spikes that could occur if a state-sponsored resource bid sets the primary auction clearing price at the minimum offer price which has been administratively established for that resource. As discussed by ISO-NE in the above-quoted text, The EMM’s suggested alternative creates the substantial risk for two negative outcomes: (1) inefficient high FCA prices which would harm consumers and (2) clearing prices set by the administratively-determined Net CONE which would harm competitive markets. For these reasons, the MPUC urges the Commission to maintain the provisions developed by ISO-NE to address price explosion concerns.

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4 Id. at 20.
V. CONCLUSION

For the reasons discussed above, the MPUC respectfully requests that the Commission consider these comments.

Dated: January 29, 2018

Respectfully submitted,

/s/ Lisa Fink____________________

Lisa Fink, Esq.
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101 Second Street
Hallowell, ME 04347
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Augusta, ME 04333-0018
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lisa.fink@maine.gov
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document either by first class mail or electronic service upon each party on the official service list compiled by the Secretary in this proceeding.

Dated at Hallowell, Maine, this 29th day of January, 2018.

/s/ Lisa Fink

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